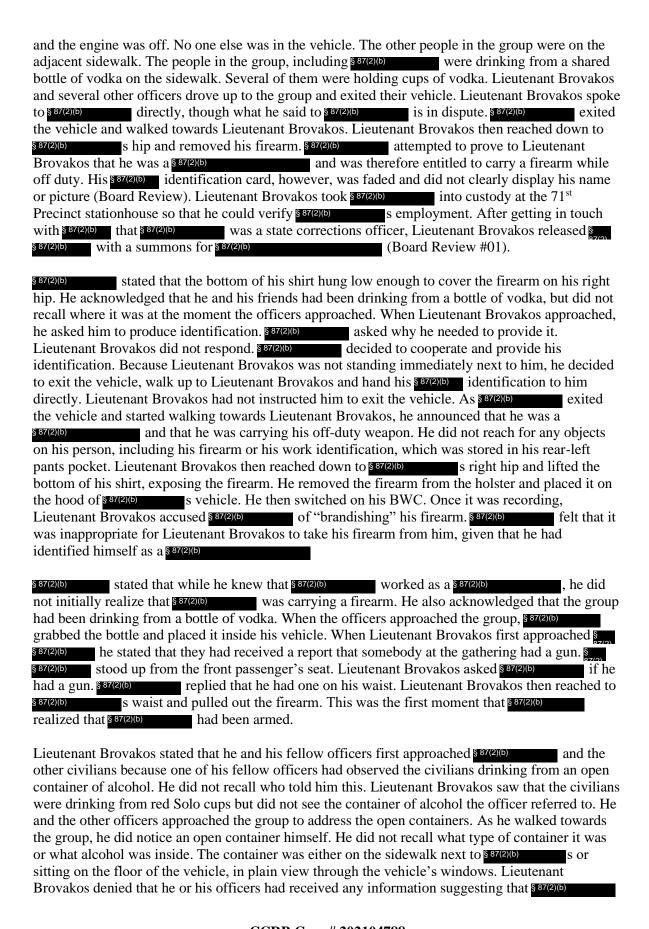
## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	$\overline{\mathbf{V}}$	Discourt.	☐ U.S.
Owen Godshall		Squad #15	202104788	Ø	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:	<u> </u>	P	recinct:	18	Mo. SOL	EO SOL
Monday, 06/07/2021 10:30 PM		§ 87(2)(b)			71	12	2/7/2022	12/7/2022
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rece	eived at CCI	I RB
Thu, 08/12/2021 12:28 PM		CCRB	On-line website		Thu, 08/12	2/202	1 12:28 PM	
Complainant/Victim	Туре	Home Addre	ess					
Witness(es)		Home Addre	ess					_
Subject Officer(s)	Shield	TaxID	Command					
1. LSA Timothy Brovakos	00000	943025	071 PCT					
Witness Officer(s)	Shield No	Tax No	Cmd Name					
1. POM Aaqib Bhatti	14985	963873	071 PCT					
2. POM Christopher Rodriguez	04501	964733	071 PCT					
3. POM Omar Delarosa	06614	964474	071 PCT					
4. POM Mubbashar Zahid	03267	965634	071 PCT					
Officer(s)	Allegatio	n			Inve	stiga	tor Recon	nmendation
A.LSA Timothy Brovakos	Abuse: Li	eutenant Timothy Brov	vakos searched (8 87(2)					
B.LSA Timothy Brovakos		Discourtesy: Lieutenant Timothy Brovakos spoke discourteously to § 87(2)(b)						
C.LSA Timothy Brovakos		Abuse: Lieutenant Timothy Brovakos searched the vehicle in which \$87(2)(b) was an occupant.						
D.LSA Timothy Brovakos	Discourtesy: Lieutenant Timothy Brovakos spoke discourteously to individuals.							
E.LSA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos threatened to arrest individuals.							

## **Case Summary**

On August 12, 2021, § 87(2)(b) filed this complaint with the CCRB via the website. works as a § 87(2)(b) As a § 87(2)(b) carries an off-duty service firearm. On the night of June 7, 2021, § 87(2)(b) gathered with several friends, in front of \$87(2)(b) in the Bronx. and § 87(2)(b) had his service weapon with him in a holster on his right hip. § 87(2)(b) sat in the front passenger's seat of a parked vehicle along the side of the road, while his friends were on the sidewalk. The group was drinking from at least one open bottle of alcohol. At approximately 10:32 p.m., a group of officers under the supervision of Lieutenant Timothy Brovakos of the 71st Precinct approached the group. Lieutenant Brovakos asked \$87(2)(6) his identification. § 87(2)(b) exited the vehicle and walked towards Lieutenant Brovakos. Lieutenant Brovakos then reached to § 87(2)(6) s waist and removed the firearm (Allegation ). § 87(2)(b) A: Abuse of Authority – Search, § 87(2)(9) identified himself as a corrections officer. Lieutenant Brovakos told § 87(2)(b) "You walk up and there's a fucking gun in your waistband" (Allegation B: Discourtesy – Word, §87(2)(9) ). § 87(2)(b) tried to show the officers his work identification to verify this, but the photograph on the identification was worn s face. The officers then searched the vehicle away and did not clearly show § 87(2)(b) \$37(2)(b) had been sitting in (Allegation C: Abuse of Authority – Vehicle search, \$37(2)(9) Lieutenant Brovakos decided to take \$87(2)(b) into custody to confirm if he was a corrections officer and was authorized to carry his firearm. Several bystanders approached the officers and objected to their actions. Lieutenant Brovakos told them, "Step the fuck off of him right now or you're all going to jail" (Allegation D: Discourtesy – Word, \$27(2)(9) ; Allegation E: Abuse of Authority – Threat of arrest, § 87(2)(9) The officers took § 87(2)(b) to the 71<sup>st</sup> Precinct stationhouse, where they verified that he was a § 87(2)(b) and was authorized to carry a weapon. He was then issued a summons for having an § 87(2)(b) (Board Review #01). provided two cell phone videos taken during this incident. They are attached in IAs #10-12 and summarized in IA #23 (Board Review #02-05). The investigation also obtained BWC footage from this incident. It is attached in IA #32 and summarized in IA #50 (Board Review #06-07). No other footage was found from this incident. **Findings and Recommendations** Allegation (A) Abuse of Authority: Lieutenant Timothy Brovakos searched (\$157(2)(5) On August 19, 2021, § 87(2)(b) was interviewed by the CCRB. On September 2, 2021, provided a telephone statement (Board Review #08). The investigation was unable to obtain a statement from § 37(2)(b) (Board Review #09). On March 15, 2022, Lieutenant Brovakos was interviewed by the CCRB. It is undisputed that § 87(2)(b) is a § 87(2)(b) and was carrying his off-duty firearm, a Glock 43 9mm pistol, during the incident. He kept the firearm in a holster on his right was gathered with several friends, including \$87(2)(b) and \$87(2)(b) on the sidewalk in front of § 87(2)(b) § 87(2)(b) was sitting in the front passenger's seat of \$87(2)(b) s vehicle, which was parked at the curb. The front passenger's door was open

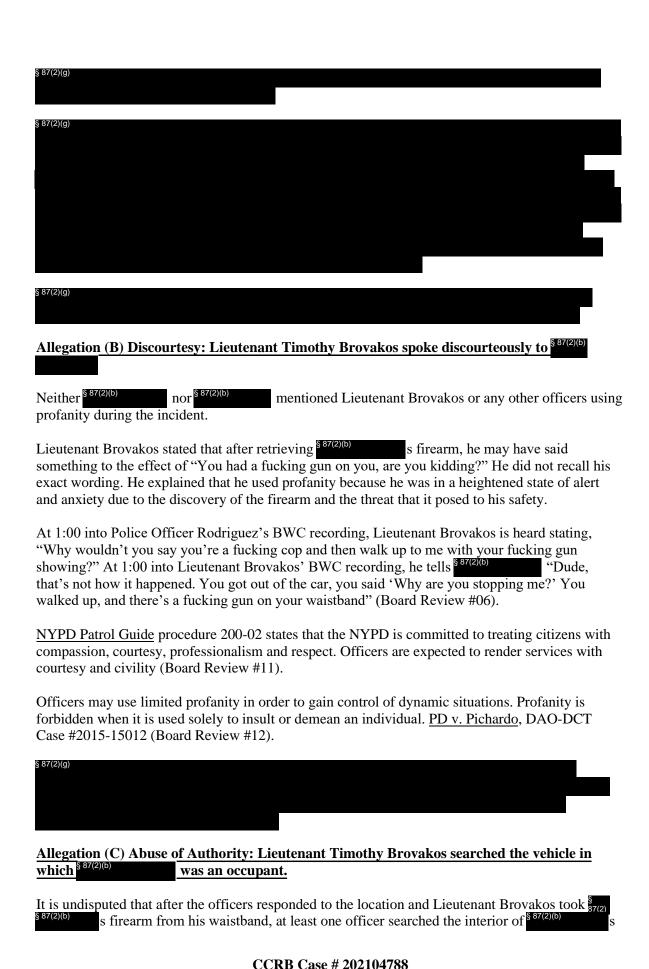


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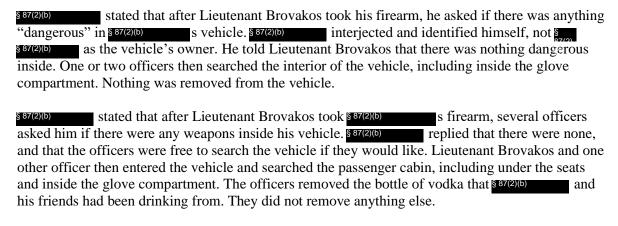
or the other civilians were armed. He stated that he and the other officers approached the group solely to address the open containers.

Lieutenant Brovakos asked \$87(2)(b) to provide identification. \$87(2)(b) asked him why. Lieutenant Brovakos stated that it was because he and his friends had been observed with open containers of alcohol. \$87(2)(b) then exited the vehicle and walked towards Lieutenant Brovakos. Lieutenant Brovakos did not recall telling \$87(2)(b) to exit the vehicle or approach. As \$87(2)(b) walked towards him, Lieutenant Brovakos noticed that the bottom of \$27(2)(b) s shirt had ridden up, revealing a holstered firearm on \$87(2)(b) s hip. Based on the appearance of the grip, he identified it as a semi-automatic handgun such as a Glock. The firearm's magazine extended from the bottom of the grip. Lieutenant Brovakos immediately moved to secure the weapon by grabbing \$87(2)(b) s right arm, lifting it up, and then pulling the gun out of the holster. He denied removing any other items from \$87(2)(b) beyond his firearm. \$87(2)(b) verbally identified himself as a corrections officer after Lieutenant Brovakos took the firearm, not before.
Lieutenant Brovakos made two BWC recordings of this incident, both of which are attached in IA #32 (Board Review #06). The first clip begins with Lieutenant Brovakos standing on the driver's side of \$57(2)(0)
Police Officer Christopher Rodriguez's BWC footage shows this action from a different angle (Board Review #06). At 0:48 into the recording, Lieutenant Brovakos is seen standing by the driver's side of \$37(2)(b) s vehicle. \$37(2)(b) exits the front passenger's seat. At 0:58 into the recording, \$37(2)(b) approaches Lieutenant Brovakos at the front of the vehicle. Lieutenant Brovakos then reaches down to \$37(2)(b) s right hip using his own right hand. Police Officer Rodriguez then triggers his BWC, activating the sound. Lieutenant Brovakos states, "Why wouldn't you say you're a fucking cop and then walk up to me with your fucking gun showing?" Another voice states, "He's an officer, my nigger. What's wrong with you?" Lieutenant Brovakos states, "What's wrong with me? You say 'I'm a cop."
In order to guarantee their own safety, an officer may seize an object from a civilian's waistband after verifying that it is a weapon. <u>People v. Williams</u> , 111 A.D.3d 448 (App. Term, 1 <sup>st</sup> Dept., 2013) (Board Review #10).
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vehicle.



Lieutenant Brovakos stated that after he retrieved the firearm, \$87(2)(b) told him that the vehicle he had been sitting in belonged to another individual in the group (identified by the CCRB Lieutenant Brovakos decided to search §87(2)(b) s vehicle. He explained that had been sitting inside the vehicle with a gun gave him probable cause the fact that § 87(2)(b) to believe that there was further contraband inside the vehicle. He did not recall any discussions or other civilians about consent to search the vehicle, including §87(2)(b) offering consent to search his vehicle. Lieutenant Brovakos did not recall the full extent of the search. He believed that he searched the back seat and the area around the driver's seat. Another officer may have assisted him by searching around the front passenger's seat, but he did not recall who this officer might have been. Lieutenant Brovakos did not recall officers searching any areas outside of the passenger cabin but noted that the discovery of \$87(2)(b) s firearm would have justified as "bumper-to-bumper" search that would have included any part of the vehicle, including the trunk. He believed that he discovered several additional open bottles of alcohol during the search but was not certain of this. He did not remove anything from the vehicle.

Lieutenant Brovakos' two BWC clips are attached in IA #32 (Board Review #06). At 1:40 into the second recording (corresponding to 10:48:53 p.m. according to the internal timestamp), he asks \$\frac{87(2)(6)}{2}\$ if he has additional weapons in the vehicle. \$\frac{87(2)(6)}{2}\$ denies that there are weapons inside his own vehicle, which is parked nearby. When Lieutenant Brovakos points towards \$\frac{87(2)(6)}{2}\$ s vehicle, \$\frac{87(2)(6)}{2}\$ states that it does not belong to him. He denies that there are any weapons in that vehicle either. He nods towards an unseen individual off-screen and states that the vehicle belongs to him. At 2:35 into the recording, Lieutenant Brovakos opens the driver's seat of \$\frac{87(2)(6)}{2}\$ s vehicle and leans inside. Lieutenant Brovakos shines a flashlight inside, but the interior is dark and nothing can be seen except when the flashlight passes over it. Lieutenant Brovakos picks up a liquor bottle. It is unclear whether it is open. At 3:15 into the recording, he exits the vehicle and orders Police Officer Rodriguez to check under the front passenger's seat. Neither Lieutenant Brovakos nor any other officer is seen searching the vehicle again on the recording.

Police Officer Rodriguez's BWC footage is also attached in IA #32 (Board Review #06). At 15:45 into the recording (corresponding to 10:50:31 p.m. according to the internal timestamp), Police Officer Rodriguez opens the front passenger's door and leans inside. A half-empty liquor bottle is sitting on top of the vehicle. The BWC points downwards towards the floor and does not clearly show where Police Officer Rodriguez reaches. At 16:10 into the recording, he exits the vehicle. No further searches are seen on the video.

Review of the BWC footage from the remaining officers shows no other instances of officers entering the vehicle besides Lieutenant Brovakos and Police Officer Rodriguez. Police Officer Bhatti's BWC footage is also attached in IA #32 (Board Review #06). At 17:05 into the recording (corresponding to 10:50:09 p.m. according to the internal timestamp), \$\frac{87(2)(0)}{2}\$ approaches the vehicle and states, "Pop the trunk, if you want." At 17:20 into the recording, he states, "There's nothing in there. Whatever you're looking for, it's not in there. Pop the trunk. There's nothing in there... Search everything, there's nothing in there." The video does not show any officers entering the vehicle.

Based on the BWC footage, it can be determined that Lieutenant Brovakos first searched [87(2)(b)] s vehicle by entering the driver's seat. Afterwards, Police Officer Rodirugez searched the area around the front passenger's seat on Lieutenant Brovakos' order. No other officers searched the vehicle, and no other areas were searched besides around the two front seats.

The BWC footage also shows that while \$87(2)(b) did offer his consent for the officers to search his vehicle, he only did so after Lieutenant Brovakos had started to search the vehicle \$87(2)(g)

Pursuant to the automobile exception to the warrant requirement, a warrantless search of a vehicle is permitted when the police have probable cause to believe that the vehicle contains a weapon. The discovery of a weapon inside a vehicle provides an officer with probable cause to search the vehicle for additional weapons or contraband. People v. Page, 137 A.D.3d 817 (App. Term, 2<sup>nd</sup> Dept., 2016) (Board Review #13).

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Allegation (D) Discourtesy: Lieutenant Timothy Brovakos spoke discourteously to individuals.

Allegation (E) Abuse of Authority: Lieutenant Timothy Brovakos threatened to arrest individuals.

Neither \$87(2)(b) nor \$87(2)(b) mentioned any officers using profanity during this incident or threatening to arrest any of the other civilians besides \$87(2)(b) during this incident.

Lieutenant Brovakos took r. Several of the other civilians verbally protested this action. Lieutenant Brovakos did not recall anything that any of the officers or the civilians might have said to each other at that point. He did not recall any of the civilians trying to physically interfere when officers took rotocustody. He did not recall any physical confrontations between officers and civilians. He did not recall telling a civilian, "Step the fuck off of him right now or you're all going to jail."

BWC footage from the officers, including Lieutenant Brovakos, are attached in IA #32 (Board Review #06). The footage shows that there were at least half a dozen civilians gathered around street so vehicle during the incident. After Lieutenant Brovakos approached 887(2)(b) the civilians began shouting curses and insults at the officers. This persisted throughout the encounter.

At 3:40 into Lieutenant Brovakos' second BWC recording, Lieutenant Brovakos tells the civilian

bystanders that he is taking \$\frac{887(2)(b)}{2}\$ to the stationhouse to verify whether he is really a corrections officer. He tells an unseen individual to go onto the sidewalk. At 4:10 into the recording (corresponding to 10:51:23 p.m. according to the internal timestamp), Lieutenant Brovakos states, "Big guy, yo, step the fuck off of him right now or you're all going to jail. Get on the sidewalk. Don't run around him like that. Get on the sidewalk and cut it out now." The camera does not show the person he is addressing, but Lieutenant Brovakos immediately turns towards three unidentified males standing next to Police Officer Bhatti by the sidewalk. He tells them to step back because the officers are trying to leave. They ask him several times why \$\frac{887(2)(b)}{2}\$ is being arrested. He tells them to leave. At 4:45 into the recording, he gets back into his vehicle and drives away.

At 18:05 into Police Officer Bhatti's BWC recording (corresponding to 10:51:08 p.m. according to the internal timestamp), PO Bhatti walks up to the passenger's side of the officers' unmarked vehicle as is loaded into the back seat. Several civilians are gathered by the side of the vehicle. One of the civilians is standing about three feet from the vehicle's open door. He is holding up a cell phone in his right hand. Police Officer Bhatti tells him to back up to the sidewalk. The male tells Police Officer Bhatti not to touch him. He does not move. Police Officer Bhatti is not seen touching the male prior to that moment, but he goes on to place a hand on his chest and moves the male back about a foot. Another unidentified officer then does the same, moving the male back again. The male does not fall down. The male tells the officers, "Don't touch me again, don't touch me again." Police Officer Zahid then pushes the male back again, moving him about a foot. He does not fall. The male and several other Lieutenant Brovakos' threat of arrest is not audible on Police Officer Bhatti's recording.

Lieutenant Brovakos was shown the BWC recording he made, which depicts him threatening to arrest one of the bystanders. After reviewing the footage, he stated that he made this threat because he noticed the bystander making contact with one of the other officers loading into the unmarked vehicle. He did not know who the bystander was. He did not recall which officer they made contact with or what type of contact they made. He explained that he used profanity because he thought that it would ensure that the civilians complied with his orders.

NYPD Patrol Guide procedure 200-02 states that the NYPD is committed to treating citizens with compassion, courtesy, professionalism and respect. Officers are expected to render services with courtesy and civility (Board Review #11).

Officers may use limited profanity in order to gain control of dynamic situations. Profanity is forbidden when it is used solely to insult or demean an individual. <u>PD v. Pichardo</u>, DAO-DCT Case #2015-15012 (Board Review #12).

New York Penal Law §195.05 states that a person is guilty of obstructing governmental administration when they attempt to prevent a public servant from performing an official function by means of intimidation, physical force or interference (Board Review #14).





## **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which \$87(2)(b) has been a party (Board Review #15).
- Lieutenant Brovakos has been a member of the service for fifteen years and has been identified as a subject in 32 cases and 130 allegations, 13 of which have been substantiated.
  - 201500206 involved a substantiated allegation of vehicle search. The Board recommended Command Discipline B. The NYPD imposed training.
  - 201910398 involved a substantiated allegation of failure to provide RTKA card, vehicle stop and discourtesy (word). The Board recommended Command Discipline A. The NYPD imposed no disciplinary action.
  - o 202003306 involved a substantiated allegation of seizure of property. The Board recommended Command Discipline A. The NYPD has not yet imposed discipline.
  - 202007423 involved two substantiated allegations of failure to provide RTKA card.
     The Board recommended that he receive Command Discipline B. The NYPD has not yet imposed discipline.
  - 202007569 involved two substantiated allegations of failure to provide RTKA card.
     The Board recommended that he receive Command Discipline B. The NYPD has not yet imposed discipline.
  - 202100053 involved substantiated allegations of failure to provide RTKA card, frisk, stop and threat of arrest. The Board recommended that he receive charges. The NYPD has not yet imposed discipline.

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## Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of November 30, 2022, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint.

Squad: 15			
Investigator:	Owen Godshall Signature	SI Owen Godshall Print Title & Name	5/13/2022 Date
Squad Leader: <sub>-</sub>	Signature	IM Simon Wang Print Title & Name	
Reviewer:	Signature	Print Title & Name	Date